RESOLUTION PROFESSIONALS UNDER INSOLVENCY AND BANKRUPTCY CODE, 2016: A CRITICAL LEGAL ANALYSIS OF EFFECTIVENESS AND ACCOUNTABILITY

Synopsis of the Research Proposal

Submitted for the Registration in the

Ph.D. Programme (Part-time) in Law

By

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LIST OF ABBREVIATIONS

- ART - Article
- CD – Corporate Debtor
- CIRP – Corporate Insolvency Resolution Process
- CoC – Committee of Creditors
- IBBI – Insolvency and Bankruptcy Board of India
- IBC – Insolvency and Bankruptcy Code, 2016
- IPA – Insolvency Professional Agency
- LLP - Limited Liability Partnership
- NCLAT – National Company Law Appellate Tribunal
- NCLT – National Company Law Tribunal
- RP – Resolution Professional
- SECTION - Section
- SICA - Sick Industrial Companies (Special Provisions) Act, 1985
- SPSS – Statistical Package for the Social Sciences
- UK – United Kingdom
- UNCITRAL – United Nations Commission on International Trade Law
- US – United States
- V. - Versus

PROPOSED SUMMARY/ ABSTRACT

The introduction of IBC, 2016 marked a change in the panorama of insolvency in India. A corporate person under sec. 3(7) of IBC includes a company, LLP, or any other person incorporated with limited liability. A critical change lies in the concept of the RP role that manages the revival or liquidation of companies. The RP is required to control the remediation of CD entity as a going concern while also upholding proper fiduciary obligations and ensuring the resolution is conducted in an unbiased manner. The RP's dual role as a neutral oversight and active decision-maker creates important concerns spanning the legal boundaries of a professional autonomy, normative professional threshold, ethics, & systems of accountability.

This research intends to analyze the legal framework and judicial rulings pertaining to the appointment, jurisdiction, duties, and responsibility of the Resolution Professionals in India. Conflicting interests, procedural shortcomings, and concerns of neutrality and competence among others in relation to RPs have come up in court scrutiny and empirical research. Even in the presence of the IBC's regulatory framework, the allegations of nepotism, collusion, and bias alongside a myriad of scrutiny regarding fairness have tended to dominate judicial discourse in the Indian legal system. The gaps in regulatory frameworks have been critically examined in rulings, such as *Deloitte Touche Tohmatsu v. Union of India* &*K. Sashidhar v. Indian Overseas Bank* while the need to protect RPs from coercive forces marked the important NCLAT ruling.

This research seeks to determine whether the existing law and institutions sufficiently enable RPs to manage the rehabilitation of the corporation while safeguarding the rights of the authorities. Through the use of doctrinal and empirical research techniques, researcher will evaluate responsibilities of RPs in corporate rehabilitation, examine gaps in the accountability systems, unfair trade practices by the RPs and put forth recommendations for reform.

Key Words:

Resolution Professional, Accountability, Role, Insolvency and Bankruptcy Code, 2016, Legal Analysis

Title

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INTRODUCTION

The adoption of the IBC marked a new chapter in handling corporate insolvency and distress. Prior to the IBC's enactment, the existence of laws, such as SICA, 1985, The Companies Act, 2013 & Recovery of Debts Due to Banks and Financial Institutions Act, 1993, created an ineffective as well as fragmented insolvency structurein India. It was common for these laws to be criticized on the grounds of inefficiency in dealing with debt recovery, resolution, or revival of corporate entities, due to the rampant out of system delays.

In contrast to IBC, the previous laws were heavily focused on debt resolution through liquidating business. The shift of focus IBC made towards debt recovery and business revival through supporting the creditor marked a positive shift in relationship to previous global practices. As a new addition to the system, RP was created with an active role to directly manage the CIRP. This new legal framework allowed the RP to exercise the role of an administrator with powers and hence the title of a manager and caretaker of the corporate debtor, a high degree of control which is the opposite to what has been granted to the creditors & judiciary from the past legal frameworks.

As outlined in Sec. 5(27) of the IBC, the RP is a registered Professional with an Insolvency Professional Agency and is regulated by the IBBI. An RP protects the interests of all parties and acts as a resolution plan fiduciary during the operation of the corporate debtor as a going concern. The RP assumes control under Sec. 18 (Interim Management), ensures corporate debtor remains going concern under Sec. 20, manages affairs under Sec. 23, and performs essential duties under Sec. 25. The role of Resolution Professionals aligns with the constitutional mandate under Art. 300A (Right to Property), ensuring fair and lawful deprivation only in accordance with procedures established by law.

They also steer the debtor company towards the preparation of the resolution plan. RPs have faced several challenges regarding corporate governance frameworks in matters of accountability, and RPs in particular have come under fire with claims of gross procedural breaches in the role of an RP, lack of independence relating to the conduct of the RP, & overarching corporate governance issues of the RP body as has been noted is *RP of Jet Airways (India) Ltd. v. State Bank of India*.

As of March 2024, over 7,200 CIRPs have been initiated under the IBC. Of these, less than 15% have resulted in successful resolution, while over 40% ended in liquidation. Notably, Delays in the resolution process and inefficiencies in RP conduct have been cited as key concerns in the IBBI's Annual Report. These figures underscore the growing scrutiny on the competence and accountability of Resolution Professionals.

Even though the IBBI has implemented a regulatory framework, these issues remain unaddressed, & lack of professional oversight is of particular concern. To some extent, the lack of oversight has come as a result, & rapid succession of disciplinary proceedings that have emerged as a result of these professional conduct issues raise the questions of the training and professional ethics framework that governs the discipline. This also creates a credibility gap with the creditors as well as with the participants in the insolvency process. In addition to this, *Sushil Ansal v. Ashok Tripathi* further highlights the issues that RPs have to balance the interest of various authorities & competing timelines.

This is why the research focuses on the integration of corporate law, professional ethics, and regulatory governance to determine how best to embed the epistemic role of insolvency guardians and corporate revival agents within the role of Resolution Professionals. Revival refers to keeping the corporate debtor as a going concern through restructuring or resolution plans. The RP ensures continuation of operations (Sec. 20, IBC) and identifies preferential, undervalued, or extortionate credit transactions under Sec. 43–51 of IBC. The RP acts as a guardian of the insolvency process by balancing competing authorities' interests, ensuring fair process, and maintaining corporate value as a going concern.

LITERATURE REVIEW

Durgesh Khanapurkar (2025) Srei, HNG, and Metenere are among the most notable cases that Khanapurkar uses to illustrate reckless behavior that comes from a lack of oversight over the resolution professional function, which also lowers RP control and autonomy. The article underscores that failure to check RP discretion may derail the creditor-driven nature of the IBC.

Baxi, A. (2024) examined the growing landscape of insolvency laws in India &role of RPs in ensuring compliance and transparency. The study focuses on the importance of regulatory oversight by the IBBI & suggested measures to enhance accountability.

Rakesh Kumar Chauhan & Anju Pandey (2024) compares RP roles and ethical frameworks across jurisdictions, concluding that India lacks structural independence safeguards. The study notes that India's system lacks grievance redressal mechanisms unlike the peer models. It emphasizes the need for legal recognition of RP autonomy to build credibility.

Devesh Kumar & Pradip Kumar Das (2024) evaluates CIRPs impact on the economy to promote recovery in GDP, enhance employment and protect key authorities while bringing to light the enforcement lag and regulatory void.

*Jyoti A. Singh & Nishi Agrawal (2024) s*tudies the changes in the responsibilities of RPs within the context of sections 16-20 of the IBC & CIRP Framework. It highlights the RP’s obligations with respect to the transparency of custodianship of the assets.

Rajeshwar Rao (2024) highlights the need for RPs to understand given industry, conduct financial assessments, and fulfill compliance obligations. Rao argues for a performance-based rating system for RPs to promote efficiency. He calls for cross-functional capacity-building programs through IPA collaborations.

Raghuveer Karan Parakh (2023) interprets RP functions as described in Section 5(27) and explains the consolidation of board authority to RP. The paper suggests a tiered allocation model based on CD complexity. It proposes statutory caps on RP responsibilities to avoid burnout and error.

INSOL International Reports (2019–2023) catalogue insolvency systems in more than 20 jurisdictions and endorse best practices such as conflict-of-interest disclosure, mandatory renewal of certifications, and tiered responses to professional misconduct, which are still developing in the India IBBI framework.

Mahender Pal Arora & Vikalp Shrivastava(2023) noted in their empirical research that the RP serves as the operational linchpin in the CIRP, whose mandate is to sustain the value of the corporate debtor as a going concern. The article mentions recurrent bottlenecks in the process due to lack of capacity, independence, alignment, or cooperation among authorities.

Raghav Agarwal (2023) studies the role of RPs in relation to creditor trust, the balance of information flow, and fairness of processes in CIRPs. He also highlights concerns with lack of effective authorities' engagement, ineffective communication, and vague ethical standards. Such systemic issues call for better defined training and accountability systems in monetized processes for practitioners by regulatory bodies.

Shruti Goel (2023) lists RP functions as overseeing asset custody, due diligence, facilitating CoC meetings, planning, and implementation. She recommends real-time oversight dashboards by IPAs to track RP actions. The paper also stresses on digital archiving of RP decisions for post-CIRP review.

Namrata Ghosh & Soubhagya Khandual (2023) explores Sections 22 and 27 on RP replacement by CoC, emphasizing that AA's role is largely limited to confirming the procedure. The paper warns that frequent RP replacements destabilize resolution strategy. It advocates minimum lock-in periods unless misconduct is proved.

IndianLegal Solution Editorial Board (2023) analyzes NCLAT decisions about RP stereotypes and their bias considering ex-employee status of creditors. The study finds that procedural lapses are rarely penalized due to vague norms. It calls for time-bound grievance handling systems by IPAs.

Indian Inst. of Insolvency Professionals of ICAI (IIIPI)(2023) an authoritative survey of insolvency professionals where the industry reports focus on evaluating the insolvency processes, measuring the CIRP timeframes, assessing value maximization

and stakeholder collaboration, identifying systemic weaknesses and exemplary RP behaviors.

KnA LLP (2023) analyzes the legal boundaries of independence of RPs in the context ofMetenere Ltd. RP's substitution due to pre-association with a creditor iscritiqued and gaps in current regulation are exposed. U.S. Chapter 11 Trusteesare compared in detail.

Khatavkar A.(2022) explored the regulatory and operational challenges faced by IPs under the IBC, 2016. The research focused on procedural delays, inconsistent judicial interpretations, and financial constraints as major issues that had affected the efficiency of CIRP.

Rajiv Khanna & Rajeev Mittal(2022) provides detailed procedural guidance and annotations of key judicial decisions. It discusses the functions of RPs in CIRPs, including control of assets, collation of claims, and legal representation. The book is highly practical but not analytical on broader structural or ethical issues. Interprets RP functions as described in Section 5(27) and explains the consolidation of board authority to RP.

PriyanshuShrivastava (2022) deconstructs CoC behavior deviances' impact on RP effectiveness. Critiques informal collusion and argues for formal conduct rules supporting RP impartiality and resolution quality.

P. Chandrachud (2021) assessed the impact of judicial decisions on the responsibilities of IPs. The research found that courts play a significant role in shaping insolvency proceedings and that RPs must navigate through the complex legal frameworks to uphold fairness and transparency in resolution processes.

Sreyan Dey(2021) delves into the gaps in India's RP system, including absent independent grievance redressal mechanisms and function overlap among the various layers of governance structures. He claims that RPs do not have statutory protection from the coercive influence of the CoC, which impairs their independence. This article is among the very few that explore the relationship between RP discretion and accountability in governance.

UNCITRAL Legislative Guide on Insolvency Law (Part 2, 2021) outlines global best practices and benchmarks for an insolvency regime. It emphasizes the necessity for adequately trained and independent insolvency practitioners, competent oversight, and strong mechanisms for dealing with professional misconduct. It advocates for apportioning clear responsibilities with supporting enforcement duties and an independent regulatory authority which cannot adjudicate the cases.

IBBI Annual Reports (2020–2023) recorded several instances of professional misconduct by RPs. From 2020 to 2023, more than 80 enforcement actions were taken against insolvency professionals for misconduct such as conflicts of interest and other procedural shortcomings. Nevertheless, such reports appear to lack a qualitative assessment of underlying contributing factors and systemic reform recommendations.

M.S. Sahoo (2020) adds value by including inputs from regulators, scholars, and practitioners. The central arguments in all the essays underscore the responsibility of the RPs in the resolving the cases in the time-bound manner. It also touches independence & professionalism. The book raises certain ambiguities and critiques the issues of overregulation, institutional design, & enforcement of rules, but fails to evaluate the overlapping jurisdiction of the judiciary and RP's actions.

Pratik Datta (2020) to resolve the regulatory gaps of accountability of RPs, author suggested introducing transparency measures such as mandatory disclosures and performance audits. He critiques the IBBI's largely reactive disciplinary structure. The article brings empirical and policy value, but the absence of a doctrinal case law analysis weakens its impact.

Sanjay Kumar Yadav (2020) documents the chronology of RP's evolution to administrating to a fiduciary role. Commentators include Essar Steel and Bhushan Power case advocates, the "public servant" ethics endorsement, sector-specific duties like real estate due diligence and the burden of oversized due diligence.

N. Khatri (2020) focuses on adjudicatory discretion balancing RP support alongside creditor protections. It delineates that Jurisprudential adjudication must meet international benchmarks. The study favors circumscribing AA discretion in plan approval to expedite resolutions. It advocates a supervisory, not substitutive, role for AAs over RPs.

T. Linna (2019) from a systems perspective, it analyzes the longevity of the frameworks of insolvency. Linna warns that unsustainable CIRP models may harm long-term creditor recovery. The work suggests using ESG frameworks in resolution planning.

BLRC Report (2018) presents BLRC's assumption that RPs must lack bias and act without the interests of CoC significant members in foreground. The BLRC's foundational emphasis on RP independence remains under-implemented. It advises decoupling CoC membership influence from RP appointment and assessment.

RESEARCH GAP

1. Despite the growing importance of RPs in India's corporate insolvency framework, there remains limited empirical research evaluating their actual performance and impact on resolution outcomes.
2. Existing studies often focus on legislative and procedural aspects but inadequately assess the effectiveness of accountability mechanisms established under the IBC and by regulatory bodies, like the IBBI and IPAs.
3. Further, scholarly discourse frequently overlooks the perspectives of key stakeholders, creditors, debtors, regulators, and judicial authorities, whose experiences are essential to understanding RP neutrality and efficiency in practice.
4. Finally, there is a notable lack of comparative jurisdictional analysis that benchmarks India's RP governance structures against global best practices, leaving unexplored opportunities for adopting proven models of professional autonomy, oversight, and ethical safeguards from mature insolvency systems.

This study addresses these gaps by integrating legal analysis with empirical evidence from practicing RPs, thereby contributing both academically and practically.

STATEMENT OF THE PROBLEM

The IBC considers RPs as independent fiduciaries, with specific responsibilities of directing the Corporate Debtor's business, overseeing adherence to intricate processes, and enabling the achieving of appropriate resolution outcomes. It is, however, a well-known fact that the roles of RPs have been shrouded with ambiguity,

conflict of interest, and procedural improprieties. The lack of a defined standard of care, unenforced ethical guidelines, and inconsistent judicial application has undermined the role of RP as a professional. The core research problem focused on in India is the lack of a defined, cohesive system that describes, manages, and governs the defined field of responsibilities, ethics, and accountability with respect to the RPs.

SIGNIFICANCE OF THE STUDY

This research is very important for understanding the new insolvency laws in India. The IBC has enabled the initiation of more than 7,000 CIRPs between the years 2016-2024 (IBBI Report, 2024), & position of the RP has become pivotal to economic stewardship, capital markets, and recovery by creditors. The study is strengthened by an empirical component that captures authorities' perceptions and experiences, adding practical depth to the normative analysis.

The study will make the following contributions -

1. Address the normative and practical gap in the literature regarding the ethical and professional obligations of RPs.

2. Propose institutional reforms for the IBBI and IPAs that are tenable in practice.

3. Further, the study will contribute to developing jurisprudence by identifying judicial patterns and providing doctrinal reconstruction.

4. Essentially, the research aims to make India's insolvency system more accessible and reliable by reinforcing the RP's position in relation to the insolvency system.

RESEARCH OBJECTIVES

1. To analyze the statutory regulations, functions, and powers of Resolution Professionals under the IBC, 2016.

2. To evaluate the effectiveness of RP powers in achieving the core objectives of corporate insolvency resolution, including timeliness, maximization of value, and stakeholder protection.

3. To investigate recurring ethical dilemmas, neutrality concerns, and procedural challenges affecting RP performance during resolution proceedings.

4. To study significant judicial pronouncements guiding the role and conduct of RPs, and their impact on insolvency jurisprudence under IBC, 2016.

5. To examine the accountability mechanisms, disciplinary proceedings, and regulatory safeguards imposed on RPs by IBBI and the courts.

6. To empirically assess stakeholder perceptions about RP independence, competence, and effectiveness within the insolvency process.

7. To identify and analyze persistent gaps and challenges in ensuring the effectiveness and accountability of RPs under the current legal regime.

8. To recommend evidence-based reforms and policy measures to strengthen the role, effectiveness, and accountability of RPs under the IBC, 2016.

RESEARCH QUESTIONS

1. What are the statutory regulations, functions, and powers governing RPs under IBC 2016, and how ambiguities are dealt with?

2. How effective are RP powers and responsibilities in ensuring timely resolution, value maximization, and protection of stakeholder interests under IBC?

3. What recurring ethical dilemmas, neutrality concerns, and procedural challenges impact RP performance and the integrity of the insolvency process?

4. Which significant judicial pronouncements have shaped RP roles and conduct, and what impact have these had on insolvency jurisprudence in India?

5. What accountability mechanisms, disciplinary actions, and safeguards are imposed on RPs by IBBI and the courts, and how effective are these mechanisms?

6. How do stakeholders perceive the independence, competence, and effectiveness of RPs during insolvency proceedings?

7. What persistent gaps and challenges exist in ensuring RP effectiveness and accountability under the current IBC regime?

8. What reforms and policy interventions can enhance the powers, ethical standards, procedural efficiency, and accountability mechanisms of Resolution Professionals to improve insolvency resolution outcomes under the IBC, 2016?

RESEARCH HYPOTHESES

H_1: Effective use of RP powers improves recovery, value maximization, and resolution timelines.

H_2: Ethical and procedural challenges affect RP neutrality and insolvency performance.

H_3: Accountability mechanisms improve RP conduct but face enforcement limitations.

RESEARCH METHODOLOGY

The methodological approach for this study is Mixed- method research which is based on the analysis of primary and secondary legal sources.

- Research Design: Mixed method approach will be adopted.

- Universe of the study: India
- Sample technique: Random and Purposive sampling
- Sample size: 500 stakeholders
- Sources of Data:
- Primary Sources of Data- The questionnaire and interview (if needed) with the stakeholders will be used to collect primary data.
- Secondary Sources of Data- Law books, articles, law database, IBBI regulations, law reports, statues and policies, judicial pronouncements will be used to complete doctrinal part of the study.

SCOPE AND LIMITATIONS OF THE STUDY

The research is restricted to the analysis of the insolvency and bankruptcy resolution process in relation to the statutory role and obligations of professionals designated as RPs, including their oversight functions. It examines only the process of CIRP and does not focus on personal, voluntary liquidation, or pre-pack structures in detail. The empirical application is limited due to concerns of confidentiality and limited access to detailed information on CIRP process.

EXPECTED OUTCOMES

1. This research is anticipated to make several scholarly and policy contributions focusing on the enhancement of the accountability & role of RPs within the scope of the IBC.

2. This study will assess the existing accountability structure imposed by the IBBI & Insolvency Professional Agencies, examining the mechanisms of regulatory oversight to highlight the shortcomings and contradictions that exist within the current framework.

3. This research will outline comprehensive proposals concerning the enhancement of the governance framework and procedural safeguards, aimed towards defining the boundaries of the professional responsibility of RPs

RESEARCH TIMELINES

S No.	Research Phase	Objectives	Sept., 2025	July, 2026	Dec, 2026	Sept, 2027	Jun, 2027	Sept, 2027
1	Background research and literature review	• Meet with Supervisor						
		• Conduct a comprehensive literature review						
		• Make research questions						
		• Prepare a theoretical framework						
2	Research design planning	• Prepare questionnaires						
		• Identify online and offline channels						
		• Identify sampling methods and data analysis methods						
3	Data collection and preparation							
		• Transcribe and code questionnaire and survey data						
4	Data analysis	• Analyze survey data						
		• Result preparation and chapter discussion						
5	Writing	• Draft of Thesis						
		• Meet with my guide ma'am for her feedback and corrections						
6	Revision	• Re-draft based on feedback						
		• Get Supervisor Ma'am approval for final draft						
		• Proofread						
		• Print, bind and submit						

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